

# Beyond the Birthright Lottery

How did you get your citizenship? Let me guess. You were born with the one you have now. There is a good chance my guess is right. Citizenship is, first and foremost, a matter of birth.

However, birth can be framed in different ways. A German may say that she is German because she was born to German parents. And an American may say that he is American because he was born on American soil.

One immediately notices the difference. Becoming German is mainly a matter of ancestry. Hence the name *jus sanguinis* for birthright citizenship *qua* blood. Becoming American is mainly a matter of territory. Hence the name *jus soli* for birthright citizenship *qua* birth on the territory.

If there were no migration, it would not matter what kind of birthright citizenship regime any country adopts. The result would always be the same. All residents would be nationals. But we live in a world of migration. Not all residents are nationals, and not all nationals are residents.

This mismatch has changed citizenship law. For instance, Germany has adopted a conditional form of *jus soli* for persons born to foreign parents. And Americans can get citizenship even if they are born outside the territory – if they are born to American parents.

Hence, Germany has extended its *jus sanguinis* regime with elements of *jus soli*. And the US have extended their *jus soli* regime with elements of *jus sanguinis*. In addition, in both countries immigrants can naturalize after having fulfilled certain conditions – and emigrants may lose their citizenship under certain conditions.

## Inclusive citizenship as a democratic imperative

If democracies want to be worth their name, they must firmly entrench and protect rules facilitating the access to citizenship of immigrants – both by birth and naturalization. This holds especially for long-term immigrant residents. Inclusive citizenship ensures that all

long-term residents, not only natives, have an equal voice in co-authoring the laws that they are subjected to. This is the core idea of democracy.

If citizenship was permanently exclusive, democracy would degenerate into tyrannical rule. Indeed, [as the political theorist Michael Walzer has put it](#), “the rule of citizens over non-citizens, of members over strangers, is probably the most common form of tyranny in human history.”

A quick glance at today’s situation in the Gulf autocracies illustrates this view. The non-citizen population in some cases far outnumbers the native population. Yet, having no access to citizenship – or to any substantial rights –, many migrant workers in the Gulf are oppressed, if not enslaved.

This brings to the fore a disturbing tension. It appears as if the Gulf autocracies can tolerate such high levels of immigration precisely because they are exclusive and tyrannical. Being faced with extraordinary numbers of immigrants, what does this mean for the institution of democracy – and of inclusive citizenship – in current Western democracies? Can inclusive citizenship be accommodated with unrestricted immigration? Or do inclusive societies need closed borders?

Do nations need walls?

The same political theorist who invokes the democratic imperative of inclusion – Michael Walzer – has also put forth an argument for territorial closure. In fact, he explicitly connects the two elements. According to Walzer, because admitting immigrants means admitting future members, it is only by exclusivity at the border that a universal political community can flourish within. This argument ultimately implies that unrestricted immigration would lead to exclusive citizenship.

Donald Trump invoked a similar idea during his campaign for the US presidency. The wall on the border to Mexico would not only lead to more security, he claimed, but also restore the American nation as such. “A nation without borders is not a nation at all,” [he tweeted](#). Emphasizing the right to border control as the most essential aspect of national self-determination, Walzer might even agree.

But what do the data say? Is there a correlation between the openness of borders and the exclusiveness of citizenship?

The empirical evidence points to a negative answer. We know that (1) immigration rates and the share of the immigrant population in the total population of a host state are not correlated with more inclusive citizenship policies, at least across Europe; (2) across the Western industrialized world, immigration rates are not correlated with naturalization rates; (3) in high-income democracies, relatively high levels of border openness for labor immigration can be combined with relatively high levels of immigrant rights, including the right to citizenship.

This seems comforting for open border and inclusive citizenship enthusiasts. But these results are history. The current situation is different.

In recent years, large numbers of immigrants have sought to enter Europe. And what has happened? As the cracks in the external walls of Fortress Europe got bigger, in what had been an area of free movement, internal walls have been built - or if they have not, political actors calling for such walls have gained traction. This suggests that a free and inclusive - and transnational European - society indeed needs some degree of external territorial closure in order to function internally.

### Citizenship as legal discrimination

I argue that this conclusion is wrong. This is based on two arguments; the first is moral, the second practical. The moral argument starts from the assumption that high territorial closure, both at the gates of Europe and at the gates of individual nation-states, is deeply at odds with the requirements of global justice. As pointed out above, citizenship is mainly a matter of birth. And birth - the accident of birth - is utterly arbitrary. This means that you can end up in any kind of country or world region, any kind of political and socio-economic system, or any kind of social position and financial situation of the family that has granted you asylum because you are their child.

You can also end up with any kind of citizenship - and, if you do not migrate (!) or belong to the lucky few who can claim ancestral citizenship of, for example, an EU member state (as fifth generation Italians in Argentina can), there is absolutely nothing you can do about that.

If that passport is one of a thriving and affluent national political community, well then, congratulations: you have just won the [birthright lottery](#). Just by the coincidence of birth, your odds to achieve a high lifetime income have increased dramatically. (Studies show that [lifetime income is determined by your geographical location of birth to 60 percent](#).)

If you end up with a passport from, say, Somalia, the situation is radically different. If in that situation, you chose to migrate to, say, Europe to increase your life chances and earn money to support your family back home - or to flee from civil unrest or even war in a failed state, you are bound to hit walls.

Finding a door in these walls is not easy. Just by virtue of your citizenship - that is, by virtue of your accidental birth - a receiving state has discretion in deciding whether to let you enter one of the doors, or whether to slam them shut in front of your face.

This highlights citizenship's exclusive edges. It is a device to discriminate members, who have a claim to enter and re-enter a state's territory unconditionally, from non-members, who do not have this right unless they already possess a permanent residence permit. Indeed, citizenship is a device for discrimination - for *legal discrimination*.

This is rarely acknowledged in public discourse. While we consider discrimination based on race or gender as morally illegitimate, immigration restrictions - based on passports - are taken for granted, when in fact they should be deeply troubling.

A Rawlsian approach to the ethics of immigration

To convince you of this view, picture the following situation. Imagine you are behind a [veil of ignorance](#) that keeps hidden your nationality - before you are accidentally born somewhere - until you have decided on how international migration should be regulated. Behind such a veil, would you, knowing you might be a citizen of Somalia, be in favor of closed borders?

This thought experiment is famous. It has its intellectual origins in the work of John Rawls, one of the most prominent political theorists in the 20<sup>th</sup> century. Rawls has used it to construct a theory of justice. But he has pictured nation-states as closed containers - migration is not considered. Only more recently has the "[migration veil of ignorance](#)" been

used in debates and [books on the ethics of immigration](#).

The point is, of course, that it is unlikely for you to be in favor of closed borders when you do not know what nationality you are going to have. You would probably be in favor of open borders, or at least much more open borders so that you have more freedom in pursuing your life projects, in the best case, or that you can get out of situations which threaten your life or do not allow you to live a life in human dignity for other reasons.

Employing science and imagining utopia to win discursive battles

The second step of my argument highlights the discursive and practical dimension of the politics of borders and citizenship. The current debate in Europe frames border control and immigration restrictions as functional necessities. If we do not control our borders and restrict immigration, so the argument goes, then we cannot have a zone of free movement without borders, we compromise our security, we undermine our welfare states, and - last but not least - we cannot have (more) inclusive citizenship, because we did not sufficiently select our future members at the border.

These arguments have to be actively debated. And the best basis for this is scientific evidence. For instance, we know that the welfare myth is, well, a myth. Research shows that [immigrants tend to pay more in taxes than they get from welfare programs](#) - and [the same seems to be the case regarding the specific group of refugees](#). Furthermore, research demonstrates that the world would be much better off economically if immigration restrictions were significantly reduced. Some estimates even suggest that [the world GDP would double](#).

The list goes on. There is strong causal evidence from so-called “natural experiments” - real situations in the social world that resemble experimental conditions - that naturalization leads to better integration outcomes in the long run, both in [political](#) and [social](#) terms. It has also been shown [that shorter asylum procedures foster greater economic integration](#).

Nonetheless, at the end of the day, debates and evidence can only help pave the way to what really counts: political reforms. Are we really ready to open more legal doors in our walls? And are we ready to make our societies more inclusive?

Perhaps the readers of this magazine are ready. But politicians in power may not be. The political costs of proposing measures that go in the direction of open borders and inclusive citizenship are high. Strong public opposition is lurking. And votes are at stake.

Moreover, the current discursive climate is toxic. The anti-immigration / anti-immigrant coalition uses linguistic weaponry that is much more powerful in manipulating the masses than any sober scientific or moral argument can ever hope to be. Equating the arrival of migrants with natural catastrophe, they spread the idea of “waves of migrants flooding Europe”, bringing with them a “refugee disaster.”

This framing strategy is so successful that we are usually not irritated anymore when reading the term “migrant wave.” You can even find the phrase in [high-quality news outlets](#).

But this does not mean that different policies, and a more just world, are impossible. The utopia of (much more) open borders and (more) inclusive citizenship can serve as an attractive beacon - *to go beyond the birthright lottery* - that can guide us in the struggle to find convincing alternative narratives. Grounded in a vision of inclusive egalitarian citizenship and of the moral value of the freedom of movement, we should frame the issue of immigration as a positive matter - a matter of liberation, emancipation, and justice on a global scale.

Creating a successful alternative narrative - and finding humanity

But to create a successful alternative narrative, these abstract concepts are only the start. What we need are stories people can relate to emotionally. Stories of refugees who have made it, who have integrated successfully, who have become citizens and are thankful for it. Stories of migrants who seize new economic opportunities and thus find the means to support their families back home. Stories of immigrants and natives living side by side, peacefully, as community members, as neighbors, and as friends.

I am sure these stories are out there for us to find - just as there are stories about cases that can fuel opposition toward immigration.

This brings us back to research. Only by conducting systematic analysis can we know which anecdote fits into a more general empirical pattern.

But before the studies are out, perhaps the most important thing is to realize that the chance of realizing open borders and inclusive citizenship is, ultimately, engrained in choices we make every day. The construction of the political will to do things differently starts with us. It can start with initiating a scientific study. It can start with supporting migrant activists and civil society organizations. Or it can start with seeking contact and working with migrants themselves.

The latter seems the most fruitful. Through exchange with people from other backgrounds a common human identity can begin to grow. We can begin to grasp that we all strive for the same things, no matter where we have been born, and what passports we carry as a consequence. And we can begin to appreciate the fact that, at the end of the day, we are all human, regardless of the walls that might separate us. Perhaps that is the most fundamental and convincing narrative of all.

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*Unsere Zeit's new series on [Citizenship and Territoriality](#) presents international, original contributions on the question of how the interplay of citizenship and territory works in a globalized world – and how it should be, and can be, changed.*

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